

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

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ALLEN LEE LANGLEY, et al.,

Plaintiffs,

vs.

Civil No. 97-660 WWD/LFG

MAYTAG CORPORATION,  
a foreign corporation,

Defendant.

**MEMORANDUM OPINION AND ORDER**

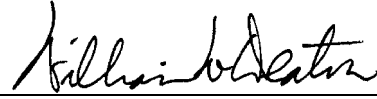
THIS MATTER comes before the Court upon Defendant's Motion for Partial Summary Judgment on the Issue of Punitive Damages, filed October 9, 1998 [docket # 57]. Defendant contends that Plaintiffs cannot establish that Maytag's conduct in the design, manufacture or distribution of the freezer warrants punitive damages.

Until additional evidence is heard at trial, this issue is premature for a ruling as to whether the evidence is insufficient to instruct the jury on the issue of punitive damages. Cmp., e.g., Sutherlin v. Fenenga, 111 N.M. 767, 771 (Ct.App.), cert. denied, 111 N.M. 678 (1991) (holding that evidence from trial was sufficient to support the trial court's ruling permitting the issue of punitive damages to be submitted to the jury). Further, the issue is one that is appropriately reserved for the jury where different inferences can be drawn from conflicting evidence. This is particularly so when an issue turns on credibility. See Romero v. Union Pacific Railroad, 615 F.2d 1303, 1309 (10th Cir. 1980). In this case, each party is presenting its own arsenal of experts, whose testimony should be weighed by the fact-finder.

**WHEREFORE,**

Defendant's Motion for Partial Summary Judgment on the Issue of Punitive Damages

[docket # 57] is hereby DENIED.

A handwritten signature in black ink, appearing to read "William B. Deaton", written over a horizontal line.

UNITED STATES MAGISTRATE JUDGE